

United States Senate

WASHINGTON, DC 20510-2309

January 16, 2014

The Honorable Tom Wheeler, Chairman
Federal Communications Commission
445 12th Street SW, Washington, DC 20554

Dear Chairman Wheeler,

The D.C. Circuit Court of Appeals' recent decision in *Verizon v. FCC* is a major setback for Minnesota's consumers and small businesses, and it threatens access to the Internet as we know it. I am writing to urge you to take any and all appropriate actions necessary to preserve net neutrality.

Generally speaking, net neutrality is the principle that the Internet belongs to the people, not to huge corporations. Today, the Internet is an open marketplace where everyone can participate on equal footing – and that's the way it should be. The website for a small business in Willmar loads as quickly as the website for Wal-Mart's stores. Minnesota Vikings fans can read about their team on the sports website of their choice, whether that's ESPN or a blog written by a fan club in Duluth. An email from a constituent in Edina gets to me just as quickly as an email from my bank.

The Internet was developed at taxpayers' expense to benefit the public interest. It belongs to all of us. And net neutrality keeps it that way. Big corporations – like Verizon, Time Warner, and Comcast – control the broadband networks that feed the Internet into homes and offices across the country. The FCC's net neutrality rules say that these corporations cannot “unreasonably discriminate in transmitting lawful network traffic over a consumer's broadband Internet access service” and that broadband providers cannot “block lawful content, applications, services, or non-harmful devices.” In other words, the big corporations are prohibited from picking and choosing which lawful content will reach consumers and from charging content providers more to put them in a “fast lane.”

The *Verizon* decision does away with those rules. The potential consequences are disastrous. Now, there is no law to stop Wal-Mart from paying Comcast for preferential treatment so that its website loads more quickly and with better quality than the website of the small business in Wilmar. There is no law to stop Time Warner from blocking all movie websites except HBO and all news websites except CNN – both of which Time Warner owns. Simply put, the Internet – once an open platform for innovation, entrepreneurship, and free speech – could become a closed forum, accessible only to the highest bidders.

The FCC must act quickly to preserve net neutrality in response to the *Verizon* decision. Fortunately, the court clearly stated that the Telecommunications Act of 1996 empowers the FCC to promulgate rules governing broadband providers' treatment of Internet traffic. This

means that the FCC already has the legal authority it needs to require net neutrality. The FCC must exercise that authority to implement new rules that will preserve access to the Internet.

I look forward to working with you on this very important issue.

Sincerely,

A handwritten signature in black ink, appearing to read "Al Franken", with a long horizontal flourish extending to the right.

Al Franken
United States Senator

Item 2

Democratic Leaders Introduce Net Neutrality Legislation

Monday, February 3, 2014

Today, Senators Edward J. Markey (D-Mass.), Richard Blumenthal (D-Ct.), Al Franken (D-Minn.), Tom Udall (D-N.M.), Ron Wyden (D-Ore.), and Jeff Merkley (D-Ore.) introduced S. 1981, "The Open Internet Preservation Act", with House Energy and Commerce Committee Ranking Member Henry A. Waxman (D-Calif.) and Communications and Technology Subcommittee Ranking Member Anna Eshoo (D-Calif.) introducing companion legislation H.R. 3982, to protect consumers and innovation online. Last month, the D.C. Circuit struck down the Federal Communications Commission's (FCC) Open Internet rules preventing broadband providers from blocking or discriminating against content online. The bill would restore these rules until the FCC takes new, final action in the Open Internet proceeding.

Original co-sponsors of the bills are: Sens. Markey, Richard Blumenthal, Al Franken, Tom Udall, Ron Wyden, and Jeff Merkley; and Reps. Waxman, Eshoo, Frank Pallone, Jr., Doris Matsui, Mike Doyle, Zoe Lofgren, Jan Schakowsky, Michael E. Capuano, and Suzan DelBene.

"The open nature of the Internet has made it the most successful commercial and communications medium in history," said Senator Markey, a member of the Commerce, Science and Transportation Committee and author of the first net neutrality bill introduced in Congress. **"The Internet's vitality and openness drives competition, innovation and job creation and we need to ensure it remains a level playing field for consumers and innovators in the wake of the D.C. Circuit Court decision. This bill ensures consumers are protected until the FCC uses its clear authority, as recognized by the court, to put in place replacement rules. I look forward to working with my colleagues to move this important legislation forward."**

"Keeping the Internet free from gatekeeper control is essential to ensuring consumers have access to the content, websites and services of their choice," said Senator Blumenthal, member of the Commerce, Science and Transportation Committee. **"Until the DC Circuit Court's recent decision, broadband companies had been barred from blocking content they dislike or holding innovative new services hostage for higher and higher tolls. This bill would reinstate principles of choice and freedom on the Internet and protect consumers and entrepreneurs."**

"The Internet is an open marketplace where everyone can participate on equal footing," said Senator Franken, Chairman of the Judiciary Subcommittee on Privacy, Technology and the Law. **"And that's the way it should be-the website of a Minnesota small business should load as quickly as the website of a large corporation. However, the FCC's rules for net neutrality were struck down last month. I immediately wrote to the FCC to press for swift action to preserve open and equal access to the Internet. This legislation is an important part of that effort."**

"The DC Circuit decision threatens network neutrality standards that preserve free speech, promote innovation, and help Internet entrepreneurs compete on a level playing field with established companies," said Senator Udall, chair of the Financial Services and General Government

Appropriations subcommittee. **"Our legislation would restore the open Internet rules gutted by the court order and protect the open Internet we enjoy today until the FCC is able to address the issue. I urge Congress to hold a vote on our bill as soon as possible. And ultimately, I encourage the FCC to use its existing authority to ensure that the Internet continues to be an open platform for all."**

"We must keep the internet open and free," said Senator Merkley, a member of the Appropriations Committee. **"I am pleased to support this bill to reinstate net neutrality rules while the Federal Communications Commission goes back to the drawing board."**

"Last month's court ruling was bad for consumers, innovation and a free and open Internet," said Senator Wyden, chair of the subcommittee on Trade, Customs and Global Competitiveness. **"It gives Internet providers a free hand to pick the winners and losers of the digital economy. The FCC's Open Internet Order established some important protections against this kind of discrimination. Without them, companies that can pay-to-play for fast lanes will have an advantage over innovators without such deep pockets. This bill puts those protections back in place long enough to allow the FCC to identify a new approach to preserving a level playing field for innovation and competition, consistent with the court's guidance."**

"The Internet is an engine of economic growth because it has always been an open platform for competition and innovation," said Rep. Waxman. **"Our bill very simply ensures that consumers can continue to access the content and applications of their choosing online. The FCC can and must quickly exercise the authorities the D.C. Circuit recognized to reinstate the Open Internet rules. Our bill makes clear that consumers and innovators will be protected in the interim."**

"With the recent D.C. Circuit appeals court ruling, the open Internet as we know it suffered a blow," said Rep. Eshoo. **"By striking down rules that prevented broadband providers from discriminating against or even blocking online content, the Court's decision threatens the openness and freedom that has defined the success of the Internet. Although the Court struck down the FCC's 'no-blocking' and 'nondiscrimination' rules, it explicitly affirmed the agency's authority to oversee broadband services in the United States. I'm introducing legislation today to reinstate the FCC's open Internet rules until the Commission adopts replacement rules. This bill ensures that consumers, not their Internet service provider, are in the driver's seat when it comes to their online experience. The free and open Internet has been a pillar of our country's growing economy, unparalleled technological innovation, and even global social movements. It is the backbone of our digital world, and I intend to keep it that way."**

The full text of the bill is available [HERE](#). A bill summary is available [HERE](#).

Press release available at: http://www.franken.senate.gov/?p=press_release&id=2690

113TH CONGRESS
2D SESSION

S. _____

To provide that the rules of the Federal Communications Commission relating to preserving the open Internet and broadband industry practices shall be restored to effect until the date when the Commission takes final action in the proceedings on such rules that were remanded to the Commission by the United States Court of Appeals for the District of Columbia Circuit.

IN THE SENATE OF THE UNITED STATES

Mr. MARKEY introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To provide that the rules of the Federal Communications Commission relating to preserving the open Internet and broadband industry practices shall be restored to effect until the date when the Commission takes final action in the proceedings on such rules that were remanded to the Commission by the United States Court of Appeals for the District of Columbia Circuit.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Open Internet Preser-
3 vation Act of 2014”.

4 **SEC. 2. RESTORATION OF OPEN INTERNET RULES DURING**
5 **REMANDED PROCEEDINGS.**

6 (a) IN GENERAL.—The rules adopted by the Federal
7 Communications Commission in the Report and Order in
8 the matter of preserving the open Internet and broadband
9 industry practices (FCC 10–201; adopted on December
10 21, 2010) that were vacated by the United States Court
11 of Appeals for the District of Columbia Circuit in *Verizon*
12 *v. Federal Communications Commission* (No. 11–1355;
13 decided on January 14, 2014) shall be restored to effect
14 during the period beginning on the date of the enactment
15 of this Act and ending on the date when the Commission
16 takes final action in the proceedings remanded to the
17 Commission in that decision.

18 (b) ADJUDICATION AUTHORITY.—After the end of
19 the period described in subsection (a), the Federal Com-
20 munications Commission may continue to adjudicate cases
21 regarding violations of the rules described in such sub-
22 section that occurred during such period.

Item 3